



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

April 10, 2018

BY ECF

The Honorable Lewis A. Kaplan
United States District Judges
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: United States v. James Gatto et al., (S1) 17 Cr. 686 (LAK)

Dear Judge Kaplan:

The Government writes to inform the Court that, this afternoon, a grand jury returned a superseding indictment in the above-captioned case, S1 17 Cr. 686 (LAK) (the "Superseding Indictment"). A copy of the Superseding Indictment is attached hereto.

The Superseding Indictment adds no additional defendants or legal theories but expands the scope of the conspiracy alleged in Count One to include alleged payments to the families of student-athletes in connection with their commitments to attend four different universities – two of which were not referenced in the original Indictment – all of which were sponsored by the same global athletic apparel company, identified in the Superseding Indictment as "Company-1." The alleged objects of the conspiracy remain the same, namely, to defraud the victim-universities by (1) causing them to issue athletic scholarships under the false pretense that the student-athletes receiving this athletic based financial aid were eligible to compete in NCAA athletics, and (2) depriving those universities of their right to control their assets while further exposing them to the risk of tangible economic harm in the form of NCAA fines and penalties, among other things.

Additionally, the Superseding Indictment adds two substantive wire fraud counts based on the same conduct. In particular, Count Two alleges that the defendants engaged in a scheme to defraud the University of Louisville by making and agreeing to make a \$100,000 payment to the family of a student-athlete in connection with that student-athlete's commitment to attend the University of Louisville, alleged conduct which was included in the allegations in the original Indictment. Count Three alleges that defendant Gatto alone defrauded the University of Kansas, by making and agreeing to make approximately \$90,000 in payments to the family of a student-athlete in connection with that student-athlete's commitment to attend the University of Kansas, alleged conduct that is new to the Superseding Indictment. Finally, the Superseding Indictment

contains a number of modest additions and revisions throughout intended to reflect, among other things, additional information learned since the time the original indictment was obtained.

While the filing of the Superseding Indictment will not necessitate substantial additional discovery, the Government will make an additional production this week to the defendants principally consisting of documents obtained from or otherwise relating to the universities and student-athletes who were not a part of the original Indictment. There are no new recordings, wires, or applications.

Finally, the Government respectfully requests that the Court schedule an arraignment of the defendants on the Superseding Indictment at the Court's convenience.

Respectfully submitted,

ROBERT S. KHUZAMI
Attorney for the United States, Acting Under
Authority Conferred by 28 U.S.C. § 515

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Cc: Defense counsel (by email)